

REMARKS

By the foregoing amendments the substitute specification has been amended with the addition of an Abstract of the Disclosure, claims 2-6, 10, 11 and 13-47 have been cancelled and claims 1, 7-9, 12 and 48 have been amended. Thus, claims 1, 7-9, 12 and 48 remain in the application.

The specification was objected to in the Office Action because it does not contain an Abstract of the Disclosure as required by 37 CFR 1.72(b). An Abstract on a separate sheet was required. As indicated above, the substitute specification has been amended to include an Abstract of the Disclosure on a separate sheet.

The claims were objected to in the Office Action as "the device" should be replaced with --the posterior calf device-- in the claims. This change has been made by the above amendments.

Claims 1-11, 13-23, 25-29, 31-34, 36-40, 42-45, 47 and 48 were rejected in the outstanding Office Action under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-23 of U.S. Patent No. 7,374,578 and claims 1-20 of U.S. Patent No. 7,578,852 as stated on pages 3 and 4 of the Office Action.

Claims 1-11, 13-23, 25-29, 31-34, 36-40, 42-45, 47 and 48 were provisionally rejected in the Office Action under the judicially created doctrine of obviousness-type double patenting as being unpatentable over pending claims of five applications as indicated in paragraph number 7 on page 4 of the Office Action.

Claims 1-8, 10, 11, 13-20, 22, 23, 25-29, 31, 33, 34, 36-39, 42, 44, 45, 47 and 48 stand rejected under 35 U.S.C. § 102(b) as being currently anticipated by Celebi, U.S. 6,402,790, as stated on pages 5 and 6 of the Office Action.

Claims 1-10, 13-22, 25-29, 31, 33, 36-40, 42, 44, 47 and 48 are rejected in the Office Action under 35 U.S.C. § 102(b) as being clearly anticipated by Phillips, U.S. 5,376,141, as stated on pages 6-8 of the Office Action.

Claims 1-8, 10, 11, 13-20, 22, 23, 25-29, 31, 33, 34, 36-39, 42, 44, 45, 47, and 48 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Pitkin, U.S. 5,376,139 as stated on pages 8-11 of the Office Action.

Claims 9, 21, 29 and 40 are rejected in the Office Action under 35 U.S.C. § 103(a) as being unpatentable over Celebi, U.S. 6,402,790 as stated on page 10 of the Office Action.

These rejections are hereby traversed and reconsideration thereof is respectfully requested in view of the above amendments and the remarks set forth below.

More specifically, Examiner Javier Blanco proposed an amended claim 1 in an e-mail to the undersigned on May 6, 2010. The Examiner indicated that with the proposed amendments claim 1 was deemed to patentably define over the cited prior art and also assignee's own earlier patents and claims in pending applications as indicated in the above obviousness type-double patenting rejection and provisional rejection. Responsive to this indication of allowable subject matter by the Examiner, the above amendments to the claims adopt the Examiner's proposed amendments to claim 1 in order to

place the application in condition for allowance. In particular, by the amendments the claim is drawn to specific features of the elected species of Figure 32. This combination of features in the improved prosthetic foot of the invention is not taught, 35 U.S.C. § 102, or rendered obvious, 35 U.S.C. § 103, by Applicants earlier patents and claims in pending applications as referred to in the obviousness-type double patenting rejection and provisional rejection. Likewise, the references to Celebi, Phillips and Pitkin referred to in the aforementioned rejections do not teach or suggest the improved prosthetic foot of the invention as recited in claim 1 as amended. Appropriate changes have been made in the dependent claims which remain in the application.

In view of the above amendments and remarks and the previous indication of allowable subject matter, reconsideration and allowance of the amended claims is respectfully requested.

A Petition for Extension of Time for three months in order to permit the timely filing of this Amendment is filed herewith.

Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 01-2135 (Case No. 183.39735AX8) and please credit any excess fees to such deposit account.

Respectfully submitted,

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Attachment: Abstract